

REMARKS

This amendment and response is being submitted in response to the Office Action dated August 10, 2005, the time to respond being until November 10, 2005. Claims 1 and 9 are herein amended and claim 2 is canceled. Thus claims 1 and 3-9 remain pending. Allowance of this application is respectfully requested.

The Examiner objected to the drawings contending that the claimed “upwardly protruding stem” was not shown in the drawings. This feature was awkwardly claimed and claim 9 has been amended to more properly (and literally) reflect the description in the specification. Therefore, the “upwardly protruding stem” is effectively canceled from claim 9. The drawings should now be in condition for allowance.

The Examiner rejected claim 9 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as his invention. Particularly, the Examiner contends that the claim makes reference to an upwardly protruding stem on the shelf of a wall rack in order to affix to a doll stand and that the specification fails to discuss this feature. The problem is that claim 9 failed to accurately claim the intended feature described in the specification on page 12, lines 18-24 and page 13, lines 5-6 as follows “[h]orizontal bracket 46 is preferably formed with a plurality of contour recesses 48 which conform to the outline of the Shaped Base 20 for seating therein, and a corresponding plurality of receptacles centrally-located within each contour recess 48, the receptacles being defined by raised ridges 52 surrounding a centering hole 44. To make use of

the receptacles of wall rack 50, the Shaped Base 20 in any of the above-described configurations is formed with a ridge 26 (see FIG. 5) protruding downwardly and sized for a cooperating fit into the raised ridges 52 of the receptacles of wall rack 50.” Consequently, claim 9 has been amended to recite this feature almost literally as described. No new matter has been added, nor was such the intent of the Applicant.

The Examiner further rejected claim 9 under 35 U.S.C. §102 (b) as being anticipated by Lebowitz (U.S. Patent No. 4,378,889). Claim 9 has been amended for consistency with the specification and in doing so the “upwardly protruding stem” feature was deleted from claim 9 and replaced with “each receptacle having raised ridges surrounding a centering hole, wherein said raised ridges fit into a downwardly protruding ridge of said shaped base for anchoring a corresponding doll stand thereto.” Lebowitz ‘889 patent discloses a spice rack and bracket assembly with none of these limitations, and thus claim 9 is now patentably distinguished.

The Examiner rejected claims 1, 3, and 8 under 35 U.S.C. 103(a) as being unpatentable over Kennedy (U.S. Patent No. 5,601,471) in view of Flicker (U.S. Patent No. 4,141,176). The Examiner contends that the skating doll platform that Kennedy is equivalent to the present invention (“[a]n improved fashion doll stand, for single-legged support of popular posable fashion dolls...”) with the exception of a contoured leg support with frontal opening, an annular collar, and lower recess, which the Examiner believes are disclosed in the Flicker ‘176 patent. The Kennedy ‘471 device is similar only insofar as it is a single-legged stand for dolls. However, it is very simply a rotating post that extends a horizontal leg clamp to clamp around the doll’s

leg. In contrast, the present invention is a single-legged doll stand that provides a full range of possibility of the doll in a natural free-standing (self-supported) position without any “contact friction” (see specification at page 8-9), and consequently no clipping or clamping the leg in any way. This fundamental ideological difference eliminates any Kennedy-like clamp and provides the reason for the structural limitations appearing in claims 1 and 3-9. These limitations are essential to the purpose of the present invention, they allow ...“the frontal opening [of the Tapered Support] providing an *unobstructed view of the doll’s leg and free egress for the foot of a subject doll being mounted*” (specification at page 6, lines 10-11), and they are clearly recited in claim 1 as follows: the leg support must be “a hollow contoured sleeve conforming to a leg of said doll, said leg support being defined by a frontal opening to bare the leg, an annular collar above said frontal opening for supporting a calf of said doll, and a lower recess beneath said frontal opening for seating a ball of said doll’s foot”. The Examiner acknowledges that Kennedy leaves out these details, but looks to Flicker ‘176 to suggest them. Flicker et al. ‘176 discloses an apparatus for posing a doll where both of the doll’s legs are supported on a platform connected to a toy camera lens. The Flicker ‘176 device is not designed for sturdy-two point support of one leg, around the calf and the ball of the foot. The Flicker device keeps the doll upright on the platform by providing two-legged support, but one point of support is a clamp around the calf, and the other is an enclosed tube around the entire foot (rather than just the ball of the foot). Thus, Flicker also lacks the essential utility described above, as well the limitations of claim 1. Flicker does not have an “annular” collar (defined as forming a ring), nor and a “lower recess

beneath said frontal opening for seating a ball of said doll's foot." To make these distinctions even more apparent, claim 1 is amended to require a *360 degree annular collar*, and "*toes extending outward through said frontal opening*". Neither Kennedy '471 nor Flicker '176 teach or suggest these limitations, and claim 1 is patentably distinguished. Furthermore, there is no suggestion/motivation in either the Kennedy '471 patent or the Flicker '176 patent to combine them, nor does the Examiner articulate such a suggestion/motivation. In fact, there is a distinct disincentive to combine because both devices provide a support that is specific to a mechanism for moving the doll. The Kennedy '471 device has a finger-actuated mechanism which allows the user to spin and lift the doll, simulating a figure skating movement. The Flicker '176 device has a toy camera with a lens that moves the platform via a wire connected therebetween. To merge one support into the other would render the movement mechanism inoperative. It is well settled that an inventive combination cannot be anticipated by finding individual features separately in the prior art and combining them in a piecemeal manner to show obviousness. *See In re Kamm and Young*, 17 USPQ 298, affd. (Court held that "The rejection here runs afoul of a basic mandate inherent in section 103 - that a piecemeal reconstruction of the prior art patents in the light of appellants disclosure shall not be the basis for a holding of obviousness.) Consequently, claim 1 as amended is clearly patentably distinguished. Claims 3 and 8 depend from claim 1 and are likewise distinguished.

The Examiner also rejected claim 2 under 35 U.S.C. 103(a) as being unpatentable over Kennedy '471 in view of Flicker '176, further in view of Fung (U.S. Design Patent No. 442,652). The Examiner contends that the Fung '652 patent shows a 360-degree collar used in a doll stand to prevent the doll from falling out. The limitations of claim 2 are now incorporated in claim 1,

and claim 2 is canceled. With regard to claim 1, the Examiner's construction of the collar may make sense in isolation, but Fung's "collar" is a waist belt. It is not an integral component of a single leg support that additionally includes a hollow contoured sleeve conforming to a leg of said doll, said leg support being defined by a frontal opening to bare the leg, an annular 360 degree collar above said frontal opening for supporting a calf of said doll, and a lower recess beneath said frontal opening for seating a ball of said doll's foot with toes extending outward through said frontal opening. Consequently, Fung moves no closer than Kennedy and Flicker, and claim 1 remains fully distinguished as set forth above.

Also, the Examiner rejected claims 4-7 under 35 U.S.C. 103(a) as being unpatentable over the Kennedy '471 patent in view of the Flicker '176 patent. The Examiner contends that the Kennedy '471 device modified by the Flicker '176 device yields claim 1, and further that depending claims 4-7 are limited to the structure of claim 1 rather than to the process by which they are made; i.e. they are being treated as product-by-process claims. Again, Applicant asserts that the combination of the Kennedy '471 patent and Flicker '176 patent does not arrive at claim 1 as described above, and consequently its depending claims 4-7 are likewise patentably distinguished.

In view of the above, all pending claims 1 and 3-9 are believed to avoid all the rejections set forth in the Official Action and thus, the case should be in condition for allowance. A Notice to this effect is respectfully requested, and the Examiner is invited to call the undersigned at 410.385.2383 to discuss any remaining issues.

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Application of: Costa, Ronald Louis

Serial No.: 10/772,151

Respectfully submitted,



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